

Tax Information

Bulletin

Issued Quarterly

September 2005

California State Board of Equalization
P.O. Box 942879, Sacramento, CA 94279-0001

What's Inside . . .

- 1 District tax rates cannot be determined by zip codes
50% interest penalty for non-amnesty participants is not refundable
- 2 Electronic funds transfer required if monthly tax liability \$10,000 or more
Do you lease electronic devices? New law changes recycling fee requirements
Closing out your seller's permit
- 3 Charges for some gift baskets and gift-wrapping may be taxable
Do you purchase cigarettes or tobacco products from out-of-state vendors?
Small Business Fairs
- 4 New or revised reference material

District tax rates cannot be determined by zip codes

It's not always possible to determine the correct tax rate based on the customer's zip code because zip code boundaries are different than tax district boundaries. A "district" is a county, city or special district under voter approved statutes that imposes district taxes within its borders. Because district taxes are imposed on the sale of tangible personal property in a district, you are responsible for reporting district tax if you are a retailer located in the district.

To allow for the correct collection of district taxes, some cities have on their websites databases of addresses located inside their incorporated city limits. Currently eight cities have databases to assist retailers and consumers in identifying addresses located within the district tax jurisdictions. In cooperation with these cities, we are providing links to their address databases from our website. Go to www.boe.ca.gov/sutax/pdf/districtatelist.pdf. If you have questions about the addresses, contact the cities directly.

Vehicle Dealers

Vehicle dealers who sell or lease vehicles are required to collect district taxes by reporting sales based on where the customer will register the vehicle. For example, Humboldt County and the city of Trinidad have the same zip code. The city of Trinidad has a district tax and vehicles registered there should be taxed at 8.25 percent. Vehicles registered to customers living in Humboldt County near Trinidad, but not within Trinidad's city limits, are not subject to the 8.25 percent tax. Since the vehicle will not be registered in the city of Trinidad, tax should be reported at 7.25 percent, the rate for Humboldt County. Regulation 1823.5, pertaining to place of delivery of certain vehicles, aircraft and undocumented vessels, provides a declaration certificate for dealers to document their customers registration address for district tax purposes.

Other Retailers

Generally, retailers must obtain a declaration certificate from cus-

tomers if the registration address is not within a tax district. Proposed Regulation 1823.4, *Place of Delivery of Tangible Personal Property Generally*, is available from our website at www.boe.ca.gov/regs/regscont.htm. The proposed amendments, which are authorized for publication, include a sample declaration certificate. If we later question the transaction, we will look to the purchaser for evidence that their address is not within a district.

If you are in doubt about a correct rate, you may check our website for links to some of the city address databases. You may also use map references such as the *Thomas Guide* or call our Local Revenue Allocation Section at 916-324-3000.

50% interest penalty for non-amnesty participants is not refundable

On July 1, 2005, we mailed demand statements to taxpayers that had applied for amnesty but did not pay their tax liability in full or did

Continued on page 4

BOARD MEMBERS

Betty T. Yee, Acting Member
First District
San Francisco

Bill Leonard
Second District
Sacramento/Ontario

Claude Parrish
Third District
Long Beach

John Chiang
Fourth District
Los Angeles

Steve Westly
State Controller
Sacramento

EXECUTIVE DIRECTOR
Ramon J. Hirsig



Electronic funds transfer required if monthly tax liability \$10,000 or more

For more than a decade, it has been possible for taxpayers to make tax payments to us electronically, rather than using paper checks. Known as EFT payments (Electronic Funds Transfers), these payments are made by authorizing the electronic transfer of funds from one account to another. Before passage of Assembly Bill 139 in July, taxpayers with monthly liabilities of \$20,000 or more were required to make their payments by EFT. Now, if your monthly tax liability averages \$10,000 or more, you must make your payments by EFT, starting January 1, 2006. If this change applies to you, we will soon send you a letter about how to make payments. Voluntary participation in the EFT program is still an option if your monthly tax liability is less than \$10,000.

For more information about the EFT program, please visit our website at www.boe.ca.gov or call our Information Center at 800-400-7115.

Do you lease electronic devices? New law changes recycling fee requirements

Are you a retailer who leases electronic devices to consumers? If so, a new law may affect how you collect and pay the electronic waste recycling fee on those products.

Assembly Bill 575, effective July 18, 2005, amends the electronic waste recycling fee law. It allows a retailer who leases electronic devices to consumers to choose to pay the electronic waste recycling fee to the vendor of those devices instead of collecting the fee from consumers.

A transaction qualifies under the new rules only if *all* of the following conditions apply:

- The vendor who sells to the retailer must be registered with us to collect and remit the electronic waste recycling fee.
- The vendor must hold a valid California seller's permit.
- The retailer must pay the fee to the vendor. The vendor's invoice to the retailer must list a separate amount for the fee paid.
- The retailer must provide a written statement on the consumer's invoice, contract, or other lease document showing that the retailer has paid the fee on behalf of the consumer.

When these conditions are met, the vendor owes the fee to the state and must remit it with an electronic recycling fee return. Neither the retailer nor the consumer is responsible for paying the fee to us.

To verify that a vendor is registered with us to collect the electronic waste recycling fee, please contact us at the number listed below. We hope to provide permit verification on the Internet soon. Please check our website at www.boe.ca.gov.

For additional information, please visit the FAQs section of our website at www.boe.ca.gov/sp-taxprog/ewaste.htm. Or you may contact us at 916-341-6906 weekdays between 8 a.m. and 5 p.m., or send a fax to 916-341-6951.

Closing out your seller's permit

As a retailer, it is important to inform the Board to close out your permit when any one of the following occurs:

- You are no longer actively engaged in business.
- You sell your business or stock of goods to someone else.
- You change the type of ownership for your business (for example, from a sole proprietorship to a corporation or partnership).
- When your partnership agreement calls for dissolution of the partnership and the formation of a new partnership when a change in partner(s) occurs.

If you fail to notify us of these changes, you may be liable for tax, interest, and penalties that are incurred after you no longer own or operate the business.

If you sell your business, change partners, or close out your business, you must let us know the following information, in writing.

- The date you stopped being actively engaged in business.
- Your reason for not being actively engaged in business.
- The name(s) of any partner(s) who have disassociated from or have been added to the partnership.
- The means you used to dispose of your fixtures, equipment and resale inventory.
- The purchase price of the inventory you retain.
- Your current address and daytime telephone number.
- You should also send your seller's permit, if available.

Please refer to publication 74, *Closing Out Your Seller's Permit*, for complete instructions. The publication includes form BOE-65, *Notice of Closeout for Seller's Permit*, which must be completed. We will then review the completed form

and contact you if more information is required. If none is needed, we will close out your account and cancel your seller's permit.

You also need to file your final sales and use tax return. After you have paid your entire liability, staff will return any security you have on deposit. It is important to remember, even after providing all information and having your permit closed out, you must still keep your business records for not less than four years. Please note there is a pending change to Regulation 1698, *Records*. If approved, it will require you to keep business records for not less than ten years, due to a statute of limitations imposed on certain amnesty eligible liabilities.

Charges for some gift baskets and gift-wrapping may be taxable

If you sell gift packages, they may include only food items or a combination of food and nonfood items. It is important to know which combination packages are taxable and which are exempt from tax. If gift packages you create contain only food items such as cheese, crackers, or fruit, the sale of these gift packages is generally exempt from tax. If you decide to include a bottle of wine with the cheese and cracker gift basket, it is important to determine the taxable portion of the combination package.

Containers, too, can be taxable depending on their value. To learn more about how tax applies to containers, and to combination packages of food and nonfood products, and gift-wrapping charges, check out our website at www.boe.ca.gov/sutax/staxpubs.htm to download publication 106, *Gift-Wrapping Charges*. You can also request a copy from our Information Center at 800-400-7115.

Do you purchase cigarettes or tobacco products from out-of-state vendors?

If you purchase cigarettes or tobacco products from a vendor located outside of California that does not collect the appropriate California excise tax from you, you owe the excise tax. This is true whether the product is purchased for your own use or for resale.

If you do not have evidence in your records showing that the excise tax has been paid on cigarettes and tobacco products, we will presume the tax has not been paid. Invoices for cigarettes and tobacco products must be kept at the retail location and available for inspection for one year and must be maintained for four years.

A retailer may only purchase cigarettes and tobacco products from licensed wholesalers or distributors. Purchase invoices must include the license number of the wholesaler or distributor as well as the license number of the re-

tailer along with a statement that California cigarette and tobacco product taxes are included.

Distributors that sell cigarettes or tobacco products in California *must* have a distributor's license issued under both the Revenue and Taxation, and Business and Professions Codes. This is in addition to the cigarette and tobacco products retailer's license that is required for all retailers of cigarettes and tobacco products.

Furthermore, it is illegal to offer or possess for sale in California, or import for personal consumption any cigarette or roll-your-own tobacco unless its manufacturer and brand family is listed in the California Tobacco Directory compiled and published by the Office of the Attorney General at <http://ag.ca.gov/tobacco/directory.htm>.

Our staff and law enforcement agency employees may seize any cigarettes or tobacco products upon which the excise tax has not been paid, including cigarettes without California tax stamps or with counterfeit tax stamps. The

Small Business Fairs

We invite current and potential business owners to attend one of our upcoming Small Business Fairs, which offer information workshops on federal, state, and local taxes as well as other government requirements. The fairs are free, but reservations are recommended.

Upcoming Fairs

Orange County, October 13, 2005

Cal State University, Fullerton

For more information, contact our Laguna Hills Office 949-461-5732

Milpitas, October 28, 2005

Crowne Plaza Hotel

For more information, contact our San Jose Office 408-277-8203

San Fernando Valley, November 3, 2005

Holiday Inn Burbank

For more information, contact our Van Nuys Office 818-901-5690



inspectors must identify themselves and present identifying credentials.

Civil and criminal penalties for businesses that do not comply with the law include:

- Felony and misdemeanor charges with a fine and/or imprisonment at the discretion of the court.
- Suspension or permanent revocation of the required license for a location that violates the law.

Please note, manufacturers and original importers of tobacco products manufactured outside the United States should not charge the excise tax to licensed cigarette and tobacco products distributors. The distributor is responsible for the tax. Licensed distributors may be subject to additional excise taxes if the manufacturer or original importer erroneously collects the excise tax.

If you would like additional information on taxation, licensing, and reporting requirements for cigarette and tobacco products, please visit our website at www.boe.ca.gov/sptaxprog/spexcise.htm.



50% interest penalty

Continued from page 1

not have an approved installment payment agreement as of May 31, 2005. The statements cited a penalty equal to 50 percent of the interest on the unpaid tax amount as of March 31, 2005, computed from the due date of the tax through March 31, 2005.

In accordance with Revenue and Taxation Code section 7074(d), once this penalty is paid it *cannot* be refunded. If you disagree with this penalty, you should request relief under Revenue and Taxation Code section 6592 *before* paying the penalty. Taxpayers may use form

BOE-735, *Request for Relief from Penalty*, for such requests. The Board may relieve this penalty if it determines you failed to make a timely return or payment because of reasonable cause and circumstance beyond your control.

E-file now, find out how . . . www.boe.ca.gov



Revised Reference Material

Sales and Use Tax Regulation Revisions

- 1525.2 Manufacturing Equipment (effective February 16, 2005)
- 1525.3 Manufacturing Equipment—Leases of Tangible Personal Property (effective February 15, 2005)
- 1566 Automobile Dealers and Sales Representatives (effective March 18, 2005)
- 1610 Vehicles, Vessels, And Aircraft (effective March 8, 2005)
- 1620 Interstate and Foreign Commerce (effective March 3, 2005)
- 1630 Packers, Loaders, And Shippers (effective January 11, 2005)
- 1703 Interest and Penalties (effective April 7, 2005)
- 1802 Place of Sale and Use For Purposes of Bradley Burns Uniform Local Sales and Use Taxes (effective February 8, 2005)
- 1805 Aircraft Common Carriers (effective January 12, 2005)
- 1825 Aircraft Common Carriers (effective January 13, 2005)

Revised Publications

- 119 Sales Tax and Warranties (March 2005)
- 116 Sales and Use Tax Records (March 2005)
- 64 Tax Tips for Jewelry Stores (March 2005)
- 53A 10 Consumer Sales and Use Tax Questions (March 2005)
- 76 Audits (May 2005)
- 103 Sales and Resale (April 2005)
- 52 Vehicles and Vessels: How to Request a Use Tax Clearance for DMV Registration (May 2005)
- 56 Offers in Compromise (April 2005)

For More Information

All telephone numbers are toll-free

| | |
|-------------------------------------|---|
| Internet | www.boe.ca.gov ■ www.taxes.ca.gov |
| Information Center | 800-400-7115 ■ TDD/TTY: 800-735-2929 |
| Requests for Fax Copies | 800-400-7115 (Choose automated services) |
| Seller's Permit Verification | 888-225-5263 ■ www.boe.ca.gov |
| Taxpayers' Rights Advocate | 888-324-2798 ■ www.boe.ca.gov |
| Tax Evasion Hotline | 888-334-3300 |
| State Legislation | www.leginfo.ca.gov/bilinfo.html |